

REMARKS

This Application has been carefully reviewed in light of the final Office Action mailed August 24, 2005 (the "Office Action"). Applicants respectfully request reconsideration and favorable action in this case.

Section 103 Rejections

The Office Action rejects Claims 1, 3-4, 6, 9, 11-14, 17, 19-20, and 22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,483,522 to Derby et al. ("*Derby*") in view of U.S. Patent No. 5,432,783 to Ahmed et al. ("*Ahmed*") in view of U.S. Patent No. 6,529,300 to Milton et al. ("*Milton*") and further in view of U.S. Patent No. 6,046,982 to Ozveren et al. ("*Ozveren*"). The Office Action rejects Claims 5, 7-8, 13, 15-16, 21 and 23-24 under 35 U.S.C. § 103(a) as being unpatentable over *Derby* in view of *Ahmed* in view of *Milton* in view of *Ozveren* and further in view of U.S. Patent No. 6,016,306 issued to Le Boudec et al. ("*Le Boudec*"). Applicants respectfully traverse these rejections.

Claim 1 recites a network node having receiver transmitter pairs (RTPs) each comprising intra RTP connections between internal RTP components having a higher speed than asymmetric connections between the RTPs, the internal RTP components comprising an optical receiver and an optical transmitter for interfacing with a wavelength division multiplex (WDM) system; determining an intranode connectivity between the RTPs; and distributing a model of the node indicative of the intranode connectivity to a disparate node in the network. Claims 9 and 17 recite similar elements. The Office Action suggests that the *Derby*, *Ahmed* and *Milton* combination "does not specifically disclose the internal links (Derby, fig. 2, item 23) are at a higher speed than the internodal links" but that *Ozveren* "discloses a switch (figs. 1 and 2) that operates at a higher speed than external links (col. 6, lines 14-20)." Office Action, page 3, ¶ 6.

First, Applicants point out that the Claim 1 does not recite "internodal links" or links between nodes. Claim 1 recites a node with RTPs that have intra RTP connections between internal RTP components with a higher speed than connections between the RTPs of the node.

In response to Applicants' previous response mailed May 9, 2005, the Office Action merely states that *Ozveren* "discloses internal switching speeds that are greater than external line speeds" and cites again to column 6, lines 14-20 of *Ozveren*. Office Action, page 2, ¶ 1. However, the Office Action fails to explain how the cited disclosure of *Ozveren* discloses intra RTP connections between internal RTP components of a network node having a higher speed than connections between the RTPs of the network node. The cited portion of *Ozveren* discloses a switch having a throughput of 800 Mb/s and eight input ports with an aggregate input data rate of 1.2 Gb/s (each port having a speed of 155 Mb/s). See *Ozveren*, col. 6, lines 14-20. There is no disclosure of a node having intra RTP connections between internal RTP components having a higher speed than connections between the RTPs of the node. For example, the cited portion of *Ozveren* appears to disclose internal throughput speed of the switch and speeds of external links of the switch. However, the claim element at issue relates to connections that are internal node connections – a node with intra RTP connections between internal RTP components and connections between the RTPs of the node. The Office Action does not even indicate which of the components of the switch it contends is an RTP (thus having internal RTP connections between its components) and which switch components comprise connections between RTPs.

Thus, the proposed combination does not disclose, teach or suggest each element of Claims 1, 9 and 17.

In addition, after contending that *Ozveren* discloses the claim element at issue, the Office Action states "[t]herefore, it would have been obvious to one skilled in the art at the time the invention was made to have a higher speed internal link in the invention of Derby in view of Ahmed and Milton in order to accommodate an aggregate amount o data arriving from several external links." Office Action, pages 3-4, ¶ 6. First, Applicants point out again that Claim 1 does not recite "external links" of a node. Second, the Office Action fails to cite to the specific motivation in the art that provides the motivation to combine *Ozveren* with *Derby*, *Ahmed* and *Milton*. The Examiner's conclusory assertion that it would have been obvious to combine *Ozveren* with the other cited references to arrive at Applicants' invention

"in order to accommodate an aggregate amount of data arriving from several external links" is entirely insufficient to support a *prima facie* case of obviousness under 35 U.S.C. § 103(a) under the M.P.E.P. and the governing Federal Circuit case law. The Office Action fails to cite any portion of the prior art as teaching the motivation. There is no teaching, suggestion or motivation in the art to combine *Ozveren* in the manner suggested by the Office Action.

In addition, the Office Action attempts to combine *Derby*, *Ahmed*, *Milton* and *Ozveren* in the rejection of Claims 1, 9 and 17. Applicants maintain that the combination of *Derby* and *Ahmed* is improper for the reasons discussed in previous submissions to the Examiner. Moreover, the Office Action states that *Derby* in view of *Ahmed* "does not disclose that internal RTP components . . . provide a connection to a WDM system." Office Action, page 3, ¶ 5. The Office Action additionally states that:

Milton discloses interconnected nodes of a WDM network (fig. 1 and fig. 3, items 14 and 15), wherein the nodes have internal interfaces (items 14) to the WDM system (items 2 and 3). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide an interface to a WDM system in the invention of *Derby* in view of *Ahmed* in order to provide network connectivity using a well-known and widely used protocol for efficiently transmitting data.

Id. However, as Applicants pointed out earlier in a previous response, merely providing "an interface to a WDM system in the invention of *Derby* in view of *Ahmed*" as suggested by the Office Action does not anticipate internal RTP components comprising an optical receiver and an optical transmitter for interfacing with a WDM system, since *Derby* does not disclose, teach or suggest internal RTP components comprising an optical receiver and an optical transmitter.

In response to Applicants previous statements in the response mailed May 9, 2005 pointing out that the Examiner has not shown the required teaching, suggestion, or motivation in the prior art to combine *Milton* with the other cited references in the manner the Examiner proposes, the Office Action states that *Milton* "discloses various benefits of providing an optical network as the basis for the invention (col. 1, lines 8-20; col. 2, lines 23-25)." Office Action, page 2, ¶ 2. The cited portions of *Milton* merely state that many high speed networks include SONET networks and that the disclosed invention in *Milton* is protocol and bit rate

independent and is therefore more responsive than SONET to the demands placed on the access and transport networks of telecommunications carriers. *See Milton*, col. 1, lines 8-20; col. 2, lines 23-25. However, having a protocol and bit rate independent system does not relate to *Derby* or the other cited references and does not provide the specific motivation to combine *Milton* with the teachings of *Derby* or any of the other references used in the combination. As indicated previously, *Derby* does not even relate to optical network systems.

Since the prior art fails to provide the required teaching, suggestion, or motivation to properly combine *Derby*, *Ahmed*, *Milton* and *Ozveren* in the manner the Examiner proposes, Applicants respectfully submit that the Examiner's conclusions set forth in the final Office Action fall well short of the requirements set forth in the M.P.E.P. and the governing Federal Circuit case law for demonstrating a *prima facie* case of obviousness. Thus, Applicants respectfully submit that the Examiner's proposed combinations appear to be merely an attempt, with the benefit of hindsight, to reconstruct Applicants' claims and are unsupported by the teachings of the cited art. Applicants respectfully submit that the rejection must therefore be withdrawn.

For at least these reasons, Applicants respectfully submit that independent Claims 1, 9 and 17 are patentable over the cited art used in the rejections and respectfully request that the rejections of Claims 1, 9 and 17 be withdrawn.

Claims 3-4 and 6 depend from Claim 1, Claims 11-14 depend from Claim 9 and Claims 19-20 and 22 depend from Claim 17. Applicants thus respectfully request that the rejections of Claims 3-4, 6, 11-14, 19-20 and 22 be withdrawn.

The Office Action applies *Derby*, *Ahmed*, *Milton* and *Ozveren* in the same manner as applied to Claims 1, 9 and 17. Claims 5 and 7-8 depend from Claim 1, Claims 13 and 15-16 depend from Claim 9 and Claims 21 and 23-24 depend from Claim 17. Therefore, for at least the reasons discussed above with respect to Claims 1, 9 and 17, Applicants respectfully request that the rejections of Claims 5, 7-8, 13, 15-16, 21 and 23-24 be withdrawn.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all the pending claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

Applicants believe no fees are due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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